

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Michelle Waidler,

Petitioner-Appellant,

v.

Butler County Board of Review,

Respondent-Appellee.

ORDER

Docket No. 11-12-0144

Parcel No. 0201308003

On October 21, 2011, the above captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board under Iowa Code sections 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Michelle Waidler was self-represented and requested a written consideration. The Butler County Board of Review designated County Attorney Greg Lievens as its representative. The Appeal Board having reviewed the entire record, and being fully advised, finds:

Findings of Fact

Michelle Waidler, owner of a residentially classified property located at 214 N Main Street, Greene, Iowa, appeals from the Butler County Board of Review regarding her 2011 property assessment. The January 1, 2011, assessment is allocated as follows: \$11,950 in land value and \$77,477 in improvement value for a total assessment of \$89,427.

The subject property is a two-story, single-family residence built in 1910. The improvements include 1520 square feet of above-grade finish; a 676 square-foot unfinished basement; a 416 square-foot detached garage; a 72 square-foot enclosed porch; a 264 square-foot open front porch; and an 880 square-foot swimming pool with vinyl covering built in 1960. The site is 0.242 acres. The property is

listed as being in “excellent” condition.

Waidler protested her assessment to the Butler County Board of Review. On the protest she contended her property assessment was not assessable, is exempt or is misclassified under Iowa Code section 441.37(1)(c) stating “new mapping places (the) property in a flood plain,” she also asserts there has been a change downward in value since the last assessment under section 441.37(1) and 441.35. The plain language statement in regards to the claim of downward assessment is essentially asserting the subject property is over-assessed. Additionally, in a re-assessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass’n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006).

The Board of Review denied the protest.

Waidler then appealed to this Board. Her written statement to this Board was: “Reduce 2011-2012 assessment – property in deteriorating condition and property not acceptable as a liveable property.” Accordingly, we consider this as a claim of over-assessment only. Waidler did not claim error to this Board and did not provide any evidence asserting an error. She also did not provide evidence to support a claim under 441.37(1)(c).

Waidler did not make an assertion as to the correct value of the property to either the Board of Review or this Board. Additionally, Waidler did not request a hearing before the Board of Review or this Board.

Waidler submitted a one-page Property Valuation Report dated February 23, 2009. This report appears to be an automated valuation model (AVM) rather an appraisal report completed by an appraiser. AVM’s are computer generated valuations and are not performed by appraisers. The report was generated by Southwest Financial Services, Ltd., Cincinnati, Ohio and completed for US Bank located in Oshkosh, Wisconsin. The report provides three sales within 0.42 to 7.38 miles that sold in October and November 2008. The only other information about the comparable properties is the

address, date of sale, and sale price. No adjustments are made to the sales. The report indicates a value for the subject property of \$100,000. Because the date of the report is 2009; the sales relied on to value the property as of that date occurred in 2008; and there is no information known about the sales, we place limited reliance on the AVM to support a January 1, 2011, assessment value.

Additionally, Waidler submitted two pages of a desktop appraisal report completed by Trisha Mohlis, Mohlis and Cooper Appraisal Associates, Reinbeck, Iowa. It is unknown if these two pages are a full copy of the desktop appraisal. The appraisal has an effective date of September 19, 2010. Similar to the 2009 AVM, this desktop appraisal was completed for US Bank.

The appraisal report concludes a value of \$82,000 based on three comparables which are unadjusted. The sales prices range from \$70,000 to \$95,000. Two properties sold in 2009 (December and October); and one property sold in August 2010. They are all located within a half-mile of the subject property. While no adjustments were made for differences, Mohlis considered sales 1 and 2 “similar” to the subject, and sale 3 was considered “superior.” This desktop analysis was based on an exterior-only inspection and notes “the subject appears to be in the process of being re-sided.” Other than this single reference to the subject property, the appraiser does not address any features, quality or condition of the property. We note the appraiser does not mention or adjust for the subject’s swimming pool.

The appraiser gives least consideration to sale 3 (118 S Main St), which sold for \$95,000 in October 2009, because it features a three-car attached and one-car detached garage compared to the subject’s one-car detached garage. Sale 3 also has a greater bedroom and bath count.

The appraiser considers sale 1 (315 N 5th Street) and 2 (411 E Traer) to be similar to the subject, with sale 1 being the most similar. Sale 2 sold in December 2009 for \$70,000. It has a two-car, detached garage compared to the subject’s one-car, detached garage. According to the record, this sale has the same 4 grade as the subject. It has an above normal condition rating compared to the

subject's excellent condition rating. Additionally, sale 2 lacks central air and a swimming pool, whereas the subject features both of these amenities.

Sale 1 is the most recent sale, which sold in August 2010 for \$87,000. Information in the record has it rated as "excellent" condition similar to the subject. However, the subject property has a 4 grade compared to sale 1 having an inferior 5+10 grade. It is situated on a slightly smaller lot but has 365 more square feet of living area. This sale does not have a swimming pool. Although the appraisal is limited and unexplained, we find this single unadjusted comparable is the most similar recent sale in the record and find it supports the subject's 2011 assessed valuation.

Overall, while we find Mohlis' appraisal to be reasonable given the limited scope of work (exterior inspection only, no apparent confirmation with property owner on condition, no explanation in report on condition of subject/comparables, and no adjustments), we find the condition notes on the property-record card, as well as the existence of a swimming pool, do not appear to have been considered within the valuation.

On May 9, 2011, the Butler County Assessor, Deb McWhirter, sent a letter to Waidler about setting up an inspection of the subject property in response to her petition to the Board of Review. While there is no response to this letter in the record, notes on the property record card indicate the owner was unwilling to allow an inspection. Additionally, an email on May 9, 2011, from McWhirter to the appraiser Trisha Mohlis indicated the owner was unwilling to allow an inspection. The email from McWhirter to Mohlis was asking for clarification if the appraisal was based on an interior or exterior inspection. Mohlis replied it was only an exterior inspection.

Notes on the property record card are as follows:

Note Title: 1993

Rewired, repainted, newer carpet, siding in 1983, Furn and A/C in 1983. No stairs to attic in 10x10. older kitchen cabinets in ex. Cond. Pool heating unit doesn't work.

Note Title: 2005 – VAI

VAI 10/7/2004 – Owner state this is illegal and I need a court order to inspect.

Note Title: 2009

TB 09/11/2008 – Talked w/owner. All listing from owner. Remove Asph rf on OP – 1633 dwlg rv.

Note Title: 2010

02/03/10 – RF added over DK, Est Porch DIM.

Note title: 2011

09/08/2010 – Chg Porch DIM, no value chg.

10/07/2010 – Owner stopped – 1 bdrm on 1st flr used as an office; all elec & plbg updated; 2004 – new shingles, 2009 – new windows & vinyl on entire house converted small bdrm to a Jacuzzi tub – jetted; converted upper bath to laundry room (W&D only).

Letters only to this owner – do not call – will not let anyone into her home.

TB 03/30/2011 – Owner stopped. Chg listing on hse.

MS 04/11/2011 – Owner called, EP part of kitchen per owner.

Waidler also submitted twelve interior photographs of the subject property. One photograph has a hand-written note “ceiling damage.” None of the other photographs are identified. The photos show the property with some deferred maintenance, but also undergoing updating. It is unknown when the photos were taken. Without further explanation, we give this evidence no consideration.

There are also three partial property record cards in the record for properties located at 311 N High Street, 115 W South and 308 N 4th Street. It is unknown why these cards are in the record and they are unexplained. We assume they were included by the Board of Review. We note the comparability rating for the properties on High and South Streets are each described as “low.” We agree as they are much smaller ranch-style homes built in the 1960’s. The property on 4th Street is a similar era and style home to the subject with a 4 grade and very good condition rating. It sold in October 2010 for \$71,500, and after adjustments on the print-out has an indicated value of \$91,388. However, we give this information little to no consideration as it is wholly unexplained.

Similarly, there are two spreadsheets and a graph of “sales ratio group statistics and array” which are unexplained. We give these charts no consideration.

Based on Waidlers appeal to this Board, it is apparent there is a disagreement about the condition rating of the subject property. However, the record is also clear that Waidler is unwilling to allow the assessor into the property to correct any errors in condition if they so exist. While the property owner is not required to allow entry by the assessor, in an instance where there is a question regarding condition it would seem prudent. Given the notes on the property record card which indicate updated electrical, plumbing, new windows, siding, and features such as a Jacuzzi tub, it appears the assessor’s office has applied its best judgment regarding the condition and rates it as “excellent.”

Based upon the foregoing, we find Waidler has provided insufficient evidence to support a claim of over-assessment.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Waidler provided an AVM and a desktop appraisal in support of her assertion the subject property is assessed for more than the value authorized by law. We give no consideration to the AVM due the comparables having sale dates in 2008. Waidler also provided a more recent (September 2010) desktop appraisal completed by Trisha Mohlis. Given the limited scope of this appraisal, as well as the updates noted on the subject property's record card and the existence of a swimming pool, which do not appear to have been considered in the valuation, we give this report limited consideration. We do note that sale 1 in the desktop appraisal is reported as the "most similar" to the subject property. With information from the property record card for this sale, we agree. It is slightly inferior in grade, slightly larger and on a slightly smaller site, and lacks a swimming pool. It sold for \$87,000. Unadjusted, we find it supports the subject's assessment. Waidler also submitted twelve interior photographs of the subject property. However the photos are unexplained and the date of the photos are unknown. As such, we give them no consideration.

A preponderance of the evidence does not support the claim that the property is assessed for more than authorized by law.

We therefore affirm the assessment of Michelle Waidler's property as determined by the Butler County Board of Review, as of January 1, 2011.

THE APPEAL BOARD ORDERS the assessment of Michelle Waidler's property located at 214 N Main Street, Greene, Iowa, of \$89,427, as of January 1, 2011, set by Butler County Board of Review, is affirmed.

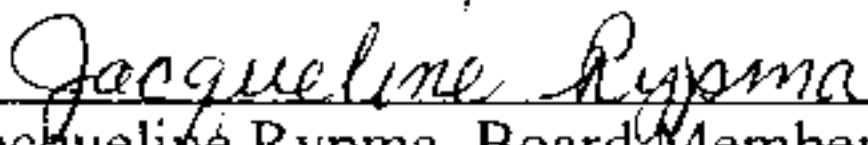
Dated this 21 day of November, 2011



Karen Oberman, Presiding Officer



Richard Stradley, Board Chair



Jacqueline Rypma, Board Member

Cc:

Michelle Waidler
214 N Main Street
Greene, Iowa 50636
APPELLANT

Greg Lievens
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ATTORNEY FOR APPELLEE

Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on 11-21, 2011

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other

Signature 